

REMARKS

Applicant has carefully reviewed the Office Action of 25 April 2002 and offers the above amendments and following remarks.

Initially, claims 22-24 were rejected under 35 U.S.C. § 101 as being directed to non-statutory subject matter. Applicant herein rewrites claims 22-24 to claim the computer readable medium, which is an apparatus, and thus is statutory subject matter. The scope of the claims has not changed. Applicant requests withdrawal of the § 101 rejection at this time in light of this amendment.

Before turning to the art-related rejections, Applicant would like to take a moment to review the present invention so that the references cited against the claims may be viewed in the proper context. The present invention is designed to send audio files to gateways so that they may be replayed from the gateway to end users of a phone network. To this end, an audio database is created with all the various messages that may be used by the network. For example, "All circuits are busy," "This is AT&T," and other similar sorts of frequently played messages may be stored in the audio database. Rather than always accessing the audio database, an audio package is created by an audio package builder/export tool. This audio package includes at least two, and more likely three, distinct elements: 1) an audio segments file; 2) an index file; and optionally 3) a catalog file. The audio package, with these elements, is then sent from the audio database to a gateway.

Claims 1-17 and 25-43 were rejected under 35 U.S.C. § 103 as being unpatentable over Gustman (831) in view of Gustman (527). Applicant respectfully traverses this rejection. To make a *prima facie* case of obviousness under 35 U.S.C. § 103, the Patent Office must show all of the claim elements in the references. MPEP § 2143.03. The Patent Office is entitled to give claim terms the broadest reasonable interpretation when evaluating the references. MPEP § 2111. However, the term "reasonable" is still part of the standard. The reasonableness of the interpretation is determined from the point of view of one of ordinary skill in the art.

Claim 1

Claim 1 recites as one element an audio package builder/export tool for accessing the audio database to build an audio package. As mentioned above, the audio package of claim 1 includes two distinct elements: 1) an audio segments file; and 2) an index file. The Patent Office expends a decent bit of text going through the two Gustman references, resulting ultimately in an

identification of phrase 206, segment 204 and index (of Gustman (527)) as the claimed audio segment, audio segment file, and index file, respectively. Without admitting the propriety of this interpretation, Applicant respectfully points out that what is not shown is the actual building of these elements into an audio package for export to a gateway. The Patent Office has failed to point out where the audio segments file and index file are built into an audio package. To the contrary, the Gustman references are more concerned with knowing where multimedia content is stored. To this end, the Gustman references send catalogs back and forth between the various elements of their networks. The catalogs include pointers to the storage locations of multimedia files. In some instances, the multimedia files in question may be in a local cache, but after a thorough review of the references, Applicant is unable to find any teaching or suggestion that audio packages with both an audio segments file and an index file are ever built. The closest teaching is that a browser may send a query to the catalog/index server, and a list of catalog entries is returned from an archive server which tells the user where the data in question is. However, this is not a teaching or a suggestion that an audio package is built. Thus, the references, either singly or in combination, fail to teach or suggest that an audio package including an audio segments file and index file are built, and the Patent Office has failed to make a *prima facie* case of obviousness. Since the claim is non-obvious over the cited references, the claim stands in condition for allowance.

Further, the Patent Office admits proximate the bottom of page 4 of the Office Action that both Gustman references fail to disclose that the audio segments contain announcements to be played to an end user in a network. This also supports a finding that the Patent Office has failed to make a *prima facie* case of obviousness with respect to this element. The Patent Office attempts to cure this deficiency by asserting that it would have been obvious to modify the two Gustman references to include an audio database of audio segments containing announcements to catalogue audio files from an audio database. The motivation to modify the reference is not compelling. The Patent Office has failed to point to any suggestion that "to catalogue audio file from an audio database" is desirable, or that modifying the audio file to include announcements to be played to an end user in a network promotes "to catalogue audio file from an audio database." With such an improper motivation, the modification to the references is improper, and the claim element is not taught or suggested by the combination of references. Again, this

missing claim element confirms that the Patent Office has failed to make a *prima facie* case of obviousness.

Claims 2-8 and new claim 44 depend from allowable claim 1, and are allowable for the same reason that claim 1 is allowable. Claim 2 has been amended to clarify that the catalog file is distinct from the index file and serves a different function. The Patent Office states that Gustman (527) teaches a catalog file. However, this catalog file is never built into an audio package. Claim 5, like claim 44, explicitly claims the exporting function. The Patent Office glosses over what is actually claimed in claim 5 by ignoring that it is an audio package with two explicit elements that is exported. The Gustman references send various things to various locations, but never is an audio package with an index file and an audio segments file built and sent to the various components. Applicant has carefully reviewed the references and fails to find any teaching or suggestion that a package with these claimed elements is sent between components of the references. This is because such a package is never built. Thus, claims 5 and 44 are independently patentable.

Claim 9

Claim 9 has been amended to include the elements of the audio package and the export functionality of the export tool. As explained above with reference to claim 1, these elements are not taught or suggested by the references, either singly or in combination, and thus the claim is non-obvious.

Claims 10, 11, and 13-17 depend from allowable claim 9 and are allowable for the same reasons.

Claim 25

Claim 25 has been amended to correspond to the amendments to claim 9. Claims 27 and 28 have been amended to conform to the new language of claim 25. Claim 25, like claims 1 and 9, recites the details of the audio package which are not shown or suggested by the references of record. Since the references fail to make a *prima facie* case of obviousness, claim 25 and its dependents, claims 26-29, are allowable.

Claim 30

Claim 30 has been amended to include the subject matter of claim 31, and thus more closely mirror the language of claim 1. As explained above, the building of an audio package for export is not shown or suggested by the references of record, and thus the claim and its

dependents, claims 32-36, are in a condition for allowance. Claim 32 is amended to correct its dependency in light of the cancellation of claim 31.

Claim 37

Claim 37 has been amended to include the audio segments file and the index file. As argued above, the references do not show, singly or in combination, the audio package with these attributes, and certainly not one that contains the information now claimed. Thus, claim 37 and its dependents, claims 38-40, are in a condition for allowance.

Claim 41

Claim 41 recites, as filed, an audio package with both an audio segments file and an index file. These elements, as argued above, are not shown or suggested as part of an audio package by the references, either singly or in combination, and thus this claim is not obvious over the references. Claims 42 and 43 depend from allowable claim 41, and are allowable for the same reasons.

Claims 22-24 were rejected under 35 U.S.C. § 103 as being unpatentable over Gustman (831). Applicant respectfully traverses this finding. Applicant reiterates the standard above for a *prima facie* case of obviousness. Specifically, the Patent Office must show every element of the claim. The Patent Office admits that Gustman (831) does not show a second section for storing information indicating the number of audio segments in the first section. The Patent Office then states that "a count to indicate the number of audio segments in the first section **can** be added to the attribute elements." This is not sufficient to support a finding of obviousness. Merely because a modification can be performed does not make such modification obvious; there must be some teaching that such is desirable. The Patent Office tries to rectify its error with its motivation to modify the reference sentence, when it states that the motivation is "to confirm the number of segments in an audio file." However, this provides no reason why confirming the number is desirable or would be suggested to one of ordinary skill in the art. In light of Gustman's catalog, which points a user to the location of the multimedia content on the various servers, there would be no reason to confirm the number of audio files. The Patent Office has failed to advance a compelling reason why the modification would take place; thus, the reference is deficient, and fails to make a *prima facie* case of obviousness.

Claims 23 and 24 depend from allowable claim 22, and are allowable for the same reasons.

New claims 45 and 46 offer an alternate way of claiming the present invention. In light of the cancellation of claims 18-21, no new fee should be required.

Respectfully submitted,

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VERSION WITH MARKINGS TO SHOW CHANGES MADE**In the claims:**

Please cancel claims 12 and 31.

Please amend claims 2, 9, 22-25, 27, 28, 30, 32, and 37 as follows:

2. (once amended) The system of claim 1 wherein the audio package includes a catalog file, distinct from the index file and the audio segments file, containing information describing the audio segment in the audio segments file.
9. (once amended) A system for building an audio package, the system comprising:
- (a) an audio database for storing audio segments containing announcements to be played to an end user in a network; and
 - (b) an audio package builder/export tool
 - for allowing a user to select, from the audio database, an audio segment to be played by a gateway [and];
 - for building an audio package including
 - an audio segments file containing the audio segment selected by the user,
 - and
 - an index file containing information usable by gateways for locating an audio segment in the audio segments file; and
 - for exporting the audio package to a gateway.
22. (once amended) A [data structure embodied in a] computer-readable medium comprising a data structure for storing an audio segment containing an announcement to be played by a gateway in a network, the data structure comprising:
- (a) a first section for storing an audio segment containing an announcement to be played by a gateway in a network; and
 - (b) a second section for storing information indicating the number of audio segments in the first section.

23. (once amended) The [data structure] computer readable medium of claim 22 wherein said data structure further comprises [comprising] a third section for storing check data for synchronizing the audio segment with a record in an index file usable by the gateway to locate the audio segment in the first section.

24. (once amended) The [data structure] computer readable medium of claim 22 wherein the first section includes a plurality of audio segments at locations corresponding to offset values in an index file usable by the gateway to locate the audio segments in the first section.

25. (once amended) A method for distributing audio data to a gateway in a network, the method comprising:

(a) receiving a request from a user for selecting an audio segment containing an announcement to be played by a gateway in a network;

(b) [generating] building an audio package including the audio segment selected by the user contained in an audio segments file and also including an index file; and

(c) exporting the audio package to the gateway.

27. (once amended) The method of claim 25 wherein [generating] building an audio package includes generating an audio segments file for containing the audio segment selected by the user and further comprises generating the [an] index file containing information regarding the audio segment selected by the user.

28. (once amended) The method of claim 25 wherein [generating] building an audio package includes generating a catalog file containing descriptive information regarding the audio segment selected by the user.

30. (once amended) A method for building an audio package including an audio segment containing an announcement to be played by a gateway in a telecommunications network, the method comprising:

(a) storing, in an audio database, audio segments to be played to an end user in a network;

[and]

(b) generating an audio package including a subset of the audio segments in the audio database, wherein generating an audio package includes generating an audio segments file containing the subset of audio segments and an index file containing information for locating audio segments in the audio segments file; and

(c) exporting the audio package to a gateway.

32. (once amended) The method of claim [31] 30 wherein generating an audio package includes generating a catalog file including records containing information describing the audio segments in the audio segments file.

37. (once amended) A method for provisioning audio on a gateway comprising:

(a) storing a first audio package definition in an audio database, the first audio package definition containing information sufficient to allow creation of a first audio package containing audio to be played on a gateway, said information including a audio segments file and an index file including an offset and a length usable by the gateway for locating audio segments in the audio segments file; and

(b) in response to a first user request, accessing the audio database, locating the first audio package definition, creating the first audio package based on the definition, and exporting the audio package from the audio database.